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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 KEVIN FERNANDEZ,¹

10 Plaintiff,

11 v.

12 JAMES GREG COX, *et al.*,

13 Defendants.

Case No. 3:14-cv-00578-MMD-VPC

AMENDED ORDER
ACCEPTING AND ADOPTING AMENDED
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
VALERIE P. COOKE

14 Before the Court is the Amended Report and Recommendation of United States
15 Magistrate Judge Valerie P. Cooke (ECF No. 387) (“R&R”) relating to defendants’ motion
16 for summary judgment (“Motion”) (ECF No. 342, 344 (sealed)). The Magistrate Judge
17 recommends granting the Motion in part and denying it in part. Plaintiff had until January
18 22, 2018, to object to the R&R. To date, no objection has been filed.²

19 This Court “may accept, reject, or modify, in whole or in part, the findings or
20 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
21 timely objects to a magistrate judge’s report and recommendation, then the court is
22 required to “make a *de novo* determination of those portions of the [report and
23 recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails
24 to object, however, the court is not required to conduct “any review at all . . . of any issue
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26 ¹The previous Order (ECF No. 388) incorrectly reflected Plaintiff’s name as Kevin
Hernandez. This order corrects that error.

27 ²Plaintiff had objected to the original Report and Recommendation, asking the
28 Magistrate Judge to correct an apparent clerical error. (ECF No. 385.) The R&R was
amended to correct the clerical error. (ECF No. 387 at 1 n. 1.)

1 that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
2 Indeed, the Ninth Circuit has recognized that a district court is not required to review a
3 magistrate judge’s report and recommendation where no objections have been filed. See
4 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard
5 of review employed by the district court when reviewing a report and recommendation to
6 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
7 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s decision in *Reyna-Tapia* as adopting the
8 view that district courts are not required to review “any issue that is not the subject of an
9 objection.”). Thus, if there is no objection to a magistrate judge’s recommendation, then
10 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
11 Supp. 2d at 1226 (accepting, without review, a magistrate judge’s recommendation to
12 which no objection was filed).

13 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
14 determine whether to adopt Magistrate Judge Cooke’s R&R. The Magistrate Judge
15 recommends granting Defendants’ Motion as to Plaintiff’s state law claims against
16 Defendants in their official capacity and denying as to Plaintiff’s remaining claims. Upon
17 reviewing the R&R and underlying briefs, this Court finds good cause to adopt the
18 Magistrate Judge’s R&R in full.

19 It is therefore ordered, adjudged and decreed that the Report and
20 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 387) is accepted and
21 adopted in its entirety.

22 It is ordered Defendants’ motion for summary judgment (ECF No. 342) is granted
23 as to Plaintiff’s state law claims against Defendants in their official capacity, including
24 any claims where Plaintiff seeks to hold the State of Nevada or the Nevada Department
25 of Corrections liable for Defendants’ alleged conduct.

26 It is further ordered that Defendants’ motion for summary judgment (ECF No. 342)
27 is denied as to Plaintiff’s remaining claims.

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1 It is further ordered that Defendants' motion to seal certain exhibits containing
2 Plaintiff's medical records (ECF No. 370) is granted.

3 DATED THIS 21st day of February 2018.

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6 MIRANDA M. DU
7 UNITED STATES DISTRICT JUDGE
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